

Remarks

Applicant has carefully reviewed the Office Action mailed January 24, 2008 and the Advisory Action mailed July 10, 2008, in which claims 1, 2, 4-20 and 39-47 are pending. In the Office Action, claims 8-20 and 39 are withdrawn from consideration and claims 1, 2 and 4-7 and 40-47 were rejected. Applicants traverse the withdrawal and the rejection and request reconsideration. This paper is being filed with a Request for Continued Examination.

Claim Rejections—35 U.S.C. § 102

Claims 40-47 were rejected under 35 U.S.C. § 102(b) as being anticipated by Zheng, U.S. Patent No. 5,579,799. Applicants respectfully traverse the rejection.

Claim 41 has been amended to include all the limitations of claim 40, from which it depended; and claim 40 has been cancelled. This after-final amendment is permissible under 37 C.F.R. § 1.116(b)(1) and in view of MPEP 608.01(n).

Claim 41 recites “a first reinforcement member coupled to the fan-shaped door, the first reinforcement member extending across the flexible sheet of material from the attachment point.” Zheng does not disclose such a reinforcement member.

The examiner argues that the folded portions of the door shown in Figure 8 are the reinforcement member. This is unpersuasive. Such an interpretation of the term reinforcement member is impermissible under MPEP 2111, which requires that “the pending claims much be ‘given their broadest reasonable interpretation consistent with the specification.’” The specification teaches that “reinforcement members, which provide structural support to for the door... may comprise poles, rods, tubes, battens, wires, or the like formed from a lightweight material such as fiberglass, carbon fiber, polyvinylchloride (PVC), or aluminum.” Para. 0049. Thus under the broadest reasonable interpretation rule, any anticipating structure must provide similar structural support. A fold in a tent door does not provide any structural support and cannot be considered to anticipated a reinforcement member under any reasonable interpretation of the claim rules. Applicants therefore respectfully submit that Zheng does not teach or suggest each and every element of claim 41.

Further, claim 43 requires that the “the first reinforcement member and the second reinforcement member radiate outward from the attachment point at an angle to one another.” The two overlapping folds of the door in Zheng are necessarily overlapping and therefore cannot radiate outward from the attachment point at an angle to one another. They necessarily have to extend from the attachment point parallel to each other. Responding in advance to the foreseen objection that “an angle” does not preclude a 0 degree angle; yes, it does. 0 degree angles arise in the contexts of mathematical equations and when one says that two components may be at any angle to each other (e.g. the hands of a clock). When describing a physical object using the phrase at an angle, the phrase is understood to mean at an actual, or non-zero angle. This is the ordinary and customary meaning a person of skill in the art would give to the term at the time of the invention. See MPEP 2111.01. Because Zheng does not teach or suggest two reinforcement members radiating outward from the attachment point at an angle to one another, applicants submit that Zheng does not anticipate this claim.

With regard to claim 44, Zheng does not disclose a double-layered wall. The examiner argues that Figure 7 shows a door positioned between two layers, the outer door of the tent and the material of the tent wall. However, if the outer door is one layer, then the tent wall on the opposite side of the tent must be the other layer. Two layers on the opposite side of a structure do not make a double-layered wall. The only double layered portion of wall shown in Figure 7 is the door, where the outer door makes one layer and the inner door the other. Because a door cannot be positioned between something and itself, Zheng does not teach or suggest the elements recited in claim 44.

With regard to claims 45-47; these claim depend from claim 1. As the Examiner does not suggest that Zheng discloses the elements of claim 1, and because these claims recite additional limitations, applicants submit that these claims are allowable over Zheng. (Zheng does not, in fact, disclose the elements of claim 1. For example, claim 1 recites a double-layered wall, “wherein the door is positioned between the first layer of material and the second layer of material of the double-layered wall.”)

Claim Rejection—35 U.S.C. § 103

Claims 1, 2 and 4-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Franklin et al., U.S. Patent No. 6,532,699 (hereinafter “Franklin”). Applicants respectfully traverse the rejection.

The Examiner argues that “Franklin does not particularly disclose the structure as being collapsible. However, Franklin discloses portable structures (column 1, lines 29-32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the structure portable in order to better relocate.”

However, portable and collapsible are not synonymous. Structures that are portable without being collapsible include mobile homes and many icehouses. One structure that is collapsible without being portable is the roof of the Metrodome here in Minneapolis (it is held up by air pressure and has collapsed in the past under heavy snows). Because making something portable does not entail making it collapsible, even if one were to follow the Examiner’s suggestion to make the structure of Franklin portable, all the elements of claim 1 would nevertheless still not be present. Because all the claim elements would not be present, a prima facie case of obviousness has not been made. Applicants therefore respectfully submit that claim 1 is in condition for allowance. As claims 2 and 4-7 depend from claim 1 and contain additional elements, applicants submit that these claims are in condition for allowance as well.

Further, claim 2 recites “a fan-shaped door”, which Franklin does not disclose. Fan-shaped does not mean, as the Examiner has supposed, a shape capable of acting as a fan. Fan-shaped means shaped like a fan, or to be less tautological, shaped like something spreading out along an arc from a single starting point. MPEP 2111 requires that the broadest reasonable interpretation of the claims must be consistent with the interpretation that those of skill in the art would reach. Applicants have never heard or seen the term “fan-shaped” used as the Examiner has suggested and assert that no one of skill in the art would so use the term. For this additional reason, applicants submit that claim 2 is in condition for allowance.

In the response to arguments section, the examiner argues that a “fan may be of any suitable shape which may direct an airflow.” This rather misses the point. “Fan-shaped” has a specific meaning apart from the myriad of shapes which an actual, physical

fan may take. A standard 8 ½" by 11" sheet of paper may be used as a fan; it is not fan-shaped. Fan-shaped is a term that gets its meaning less from actual contemporary fans (most of which have multiple blades) than from dim cultural memory of folding fans. Thus one sees references to a fan-shaped river delta or a fan-shaped jet of fluid (neither of which is capable of acting as a fan), but one does not see references to fan-shaped propellers. At dictionary.com, the following definitions of fan are presented:

1. A device for creating a current of air or a breeze, especially:
 - a. A machine using an electric motor to rotate thin, rigid vanes in order to move air, as for cooling.
 - b. A collapsible, usually wedge-shaped device made of a light material such as silk, paper, or plastic.
2. A machine for winnowing.
3. Something resembling an open fan in shape: *a peacock's fan*.

The third definition is closest to fan-shaped, and it clearly refers to 1b rather than to 1a. The Examiner's interpretation of fan-shaped is contrary to the plain meaning of the term. Because Franklin does not disclose a fan shaped door, when that term is given its broadest reasonable interpretation, applicants submit that claim 2 is in condition for allowance for this additional reason.

If the Examiner persists in interpreting fan-shaped to mean any suitable shape which may direct an airflow, applicants ask the examiner to include examples of such usage that are broader than the definition we have discussed above.

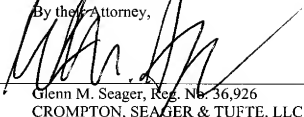
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that the claims are now in condition for allowance, issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Dianne M. Goodwin et al.

By their attorney,

Date: July 24, 2009



Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050